

RACING AND GAMING COMMISSION[491]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Operation,” Chapter 4, “Contested Cases and Other Proceedings,” Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” Chapter 6, “Occupational and Vendor Licensing,” Chapter 10, “Thoroughbred and Quarter Horse Racing,” Chapter 11, “Gambling Games,” and Chapter 12, “Accounting and Cash Control,” Iowa Administrative Code.

Item 1 provides the current Web site address for the Commission.

Item 2 clarifies that the provisions in subrule 4.5(8) apply to all licensed facilities.

Item 3 removes a requirement for dog tracks.

Item 4 allows for the acceptance of all types of checks.

Item 5 allows for mobile pari-mutuel wagering outside the designated wagering area.

Item 6 provides the current Web site address for the Commission.

Item 7 adds a specific circumstance that is grounds for license sanction.

Item 8 excludes spouses from the partnership requirements.

Item 9 removes the abuse of discretion standard to make consistent with previous rule change.

Item 10 changes the required payments made by the horsemen’s bookkeeper.

Item 11 adds a requirement to identify horses that are racing on that day.

Item 12 clarifies which horses are eligible to compete for breeders awards.

Item 13 changes number and types of claims allowed.

Item 14 removes “unsound” as a condition.

Items 15 and 16 add the definition of “independent financial institution” and amend the definition of “reserve.”

Item 17 adds requirements relating to preverified cards.

Item 18 makes changes to the wide area progressive system provider requirements.

Item 19 requires changes to internal controls for preverified cards.

Any person may make written suggestions or comments on the proposed amendments on or before November 29, 2016. Written material should be directed to the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309; or irgc@iowa.gov. Persons who wish to convey their views verbally should contact the Commission office at (515)281-7352.

A public hearing will be held on November 29, 2016, at 9 a.m. in the office of the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa. Persons may present their views at the public hearing either verbally or in writing.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Amend paragraph 1.2(2)“a” as follows:

a. The commission meets periodically throughout the year and shall meet in July of each year. Notice of a meeting is published on the commission’s Web site at www.iowa.gov/irgc/ <https://irgc.iowa.gov/> at least five days in advance of the meeting or will be mailed sent to interested persons upon request. The notice shall contain the specific date, time, and place of the meeting. Agendas are available to any interested persons not less than five days in advance of the meeting.

ITEM 2. Amend subrule 4.5(8) as follows:

4.5(8) Persons who are not holders of a license or occupational license and who have allegedly violated commission rules or statute, or whose presence at a ~~track or on a riverboat~~ licensed facility is allegedly undesirable, are subject to the authority of the board and to any penalties, as set forth in rule 491—4.7(99D,99F).

ITEM 3. Amend paragraph **5.4(4)“a”** as follows:

a. During all hours of operation, each licensee shall equip and maintain adequate first-aid facilities and have, at a minimum, one employee trained in CPR, first aid, and the use of the automated external defibrillator (AED). During live racing at horse racetracks and while excursion gambling boats are cruising, the licensee shall have present either a physician, a physician assistant, a registered nurse, a licensed practical nurse, a paramedic, or an emergency medical technician.

ITEM 4. Amend subrule 5.4(9) as follows:

5.4(9) *Checks.* ~~The acceptance of personal checks shall be allowed; however, “counter” checks shall not be allowed.~~ All checks accepted must be deposited in a bank by the close of the banking day following acceptance.

ITEM 5. Adopt the following new subrule 5.5(12):

5.5(12) *Mobile pari-mutuel wagering.* Pari-mutuel wagering shall be allowed outside the designated wagering area using mobile pari-mutuel tellers with portable wagering devices and by any other method approved in writing by the commission.

ITEM 6. Amend subrule 6.4(2) as follows:

6.4(2) *Knowledge of rules.* By acceptance of a license from the commission, the licensee agrees to follow and comply with the rules of the commission and Iowa statutes pertaining to racing and gaming, to report immediately to the commission representative any known irregularities or wrongdoing involving racing or gaming and to cooperate in subsequent investigations. Commission rules are available on the commission’s Web site at ~~www.iowa.gov/irgc/~~ https://irgc.iowa.gov/.

ITEM 7. Adopt the following new paragraph **6.5(3)“x”**:

x. Communicating with or contacting a person who is voluntarily excluded pursuant to Iowa Code chapter 99D or 99F for gaming-related activities.

ITEM 8. Amend subrule 6.20(1) as follows:

6.20(1) A partnership is defined as a formal or informal arrangement between two or more persons to own a racing animal. All partnerships, excluding ~~husband and wife~~ spouses, must be licensed with the commission on forms furnished by the commission, and in accordance with the requirements of 491—6.17(99D).

ITEM 9. Amend subparagraph **10.4(4)“d”(3)** as follows:

(3) Fouls.

1. Extent of disqualification. Upon any claim of foul submitted to them, the stewards shall determine the extent of any disqualification and place any horse found to be disqualified behind others in the race with which it interfered or may place the offending horse last in the race. The stewards at their discretion may determine if there was sufficient interference or intimidation to affect the outcome of the race and take the appropriate actions thereafter. ~~Abuse of discretion shall be the standard of review used in any appeal involving a steward’s disqualification decision.~~

2. and 3. No change.

ITEM 10. Amend subparagraph **10.4(15)“d”(3)** as follows:

(3) The horsemen’s bookkeeper shall disburse the purse of each race and all stakes, entrance money, and jockey fees, ~~purchase money in claiming races, and all applicable taxes,~~ upon request, within 48 hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory (commission chemist) as reported by the stewards. Minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratory.

ITEM 11. Amend subparagraph **10.5(1)“a”(2)** as follows:

(2) Preventing the administration of any drug, medication, or other prohibited substance that may cause a violation of these rules. An “in-today” sign must be placed by 8 a.m. on race day next to the stall of a horse that is scheduled to race on that day. For horses shipping in on race day, the sign must be placed upon the horse’s arrival.

ITEM 12. Adopt the following **new** paragraph **10.6(2)“n”**:

n. Iowa-foaled horse. An Iowa-foaled horse may be entered in an Iowa-bred race without having its official jockey club registration papers stamped, but shall not compete in a race limited to Iowa-foaled horses unless the horse is registered with and the papers are stamped by the department of agriculture and land stewardship. An Iowa-foaled horse would be allowed to run in an open race without the stamp, but would be ineligible for Iowa-bred supplement, Iowa-bred breeders awards and Iowa-bred breeders supplement.

ITEM 13. Rescind subparagraph **10.6(18)“a”(2)** and adopt the following **new** subparagraph in lieu thereof:

(2) Number of claims.

1. An ownership entity (sole owner, partnership or limited liability partnership, racing stable, corporation or limited liability corporation, or owner/trainer acting as an owner) shall not claim more than one horse in a race, and an authorized agent or trainer acting on behalf of an ownership entity shall not submit more than two claims in a race with two separate ownership interests.

2. If an authorized agent or trainer acting on behalf of an ownership entity submits two claims in a race, the claims shall not be for the same horse.

3. A trainer shall not receive more than two horses from any claiming race.

ITEM 14. Amend subparagraph **10.6(18)“g”(3)** as follows:

(3) The stewards shall void the claim and return the horse to the original owner if:

1. The claimed horse suffers a fatality during the running of the race, dies, or is euthanized before leaving the track.

2. The commission veterinarian, during the veterinarian’s observation of the horse coming off the track or upon its arrival to the test barn, determines the horse will be placed on the veterinarian’s list as ~~unsound or~~ lame. The stewards shall not void the claim if, prior to the race in which the horse is claimed, the claimant elects to claim the horse regardless of whether the commission veterinarian determines the horse will be placed on the veterinarian’s list as ~~unsound or~~ lame. An election made under this rule shall be entered on the claim form.

3. The race is called off, canceled, or declared no contest.

ITEM 15. Adopt the following **new** definition of “Independent financial institution” in rule **491—11.1(99F)**:

“Independent financial institution” means a bank approved to do business in the state of Iowa or an insurance company admitted to transact insurance in the state of Iowa with an A.M. Best insurance rating of “A” or other equivalent rating.

ITEM 16. Amend rule **491—11.1(99F)**, definition of “Reserve,” as follows:

“Reserve” means an account with an independent financial institution or brokerage firm consisting of cash, ~~and~~ qualified investments, or other secure funding method approved by the administrator used to satisfy periodic payments of prizes.

ITEM 17. Adopt the following **new** subrule 11.7(9):

11.7(9) Preverified cards. Cards that are verified prior to arrival at the facility may be approved by the administrator for use in table games authorized by this rule. Preverified cards may be shuffled or sequenced according to the licensee’s specifications. Each manufacturer of preverified cards shall request approval of its cards, pursuant to subrule 11.4(1), and is subject to the following additional requirements:

a. Each device used to verify or automate the randomization of the cards before they are shipped to a licensee shall be certified by a commission-designated independent testing facility.

b. The manufacturer shall develop and submit to the administrator a process for producing, shuffling, and packaging preverified cards that includes the following:

(1) A visual inspection of the back of each card, ensuring the cards are not flawed or marked in any way that might compromise the integrity of the gambling game.

(2) A verification that each package of cards contains the correct number of suits and cards in accordance with the commission-approved rules of the game for the game with which the package of cards is intended for use.

(3) Insertion of the cards in a package with a tamper-evident seal that bears conspicuous indication if the package has been opened. The exterior of the package shall indicate:

1. The total number of decks contained within the package.
2. The commission-authorized game with which the cards are intended for use.
3. The color of the cards within the package.

(4) Generation of a receipt in the package or a label on the sealed package to include the following information:

1. The total number of cards and decks contained within the package.
2. The date and time the cards were shuffled, verified and packaged.
3. Information sufficient to determine the specific details regarding any persons or devices involved in the production, verification or packaging of the cards.

ITEM 18. Rescind paragraph **11.12(8)“j”** and adopt the following **new** paragraph in lieu thereof:

j. The provider shall comply with the following:

(1) A reserve shall be established and maintained by the provider in an amount of not less than the sum of the following amounts:

1. The present value of the amount currently reflected on the jackpot meters of the multilink.
2. The present value of one additional reset (start amount) of the multilink.

(2) For system jackpots disbursed in periodic payments, a provider shall fund the periodic payments within 90 days of the notice of the jackpot award with:

1. Purchase of a qualified investment. A copy of such qualified investment shall be provided to the administrator within 30 days of purchase. Any qualified investment shall have a surrender value at maturity, excluding any interest paid before the maturity date, equal to or greater than the value of the corresponding periodic jackpot payment and shall have a maturity date prior to the date the periodic jackpot payment is required to be made; or

2. An irrevocable surety bond or an irrevocable letter of credit with an independent financial institution which provides periodic payments to a winner should the establishment default for any reason. The written agreement establishing an irrevocable surety bond or irrevocable letter of credit shall be submitted to the administrator within 30 days of purchase; or

3. An irrevocable trust with an independent financial institution in accordance with a written trust agreement approved by the administrator which provides periodic payments from an unallocated pool of assets to a group of winners and which shall expressly prohibit the winner from encumbering, assigning or otherwise transferring in any way the winner's right to receive the deferred portion of the winnings except to the winner's estate. The assets of the trust shall consist of federal government securities including but not limited to treasury bills, treasury bonds, savings bonds or other federally guaranteed securities in an amount sufficient to meet the periodic payments as required; or

4. Another irrevocable method of providing the periodic payments to a winning player consistent with the purpose of this subparagraph, and which is approved by the administrator prior to implementation.

(3) The provider shall not be permitted to sell, trade, or otherwise dispose of any periodic payment funding unless approval to do so is first obtained from the administrator.

(4) Upon becoming aware of an event of noncompliance with the terms of the reserve requirement mandated by subparagraph 11.12(8)“j”(1) above, or in the event of nonpayment of a periodic payment directly by the provider, the provider must immediately notify the administrator. An event of noncompliance includes a nonpayment of a jackpot periodic payment or a circumstance which may

cause the provider to be unable to fulfill, or which may otherwise impair the provider's ability to satisfy, the provider's jackpot payment obligations.

(5) On a quarterly basis, the provider must deliver to the administrator a calculation of system reserves required under subparagraph 11.12(8) "j"(1) above. The calculation shall come with a certification of financial compliance signed by a duly authorized financial officer of the provider, on a form prescribed by the administrator, validating the calculation.

(6) On an annual basis, the provider must deliver to the administrator updated information sufficient to determine compliance with the funding requirements of all outstanding periodic payments. This shall include an updated listing of all winners showing outstanding periodic payment amounts and any updates to funding documents and agreements. The updated information shall come with a certification of compliance signed by a duly authorized financial officer of the provider.

(7) The reserve required under subparagraph 11.12(8) "j"(1) must be examined by an independent certified public accountant according to procedures approved by the administrator. Two copies of the report must be submitted to the administrator within 90 days after the conclusion of the provider's fiscal year.

(8) The administrator may require additional information or audits at any time to ensure compliance with this paragraph.

ITEM 19. Adopt the following **new** paragraph **12.3(1) "g"**:

g. Preverified card control, for use with cards approved pursuant to 491—subrule 11.7(9). Controls shall be designed to document:

(1) The procedure governing inspection of the packaging when the cards are put into use on a live table game, including verification of the tamper-evident seal and review of the manufacturer-generated receipt for relevant details.

(2) The procedure for employee breaking of the tamper-evident seal to sign the receipt with name, time the package is being placed in use, and specific table where the package is being used.

(3) The procedure to retain the receipt and the details of use.

(4) Any additional procedures that will be used to verify or randomize preverified cards prior to play.